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PART IV

Private Advertisements and Miscellaneous Notifications

COCHIN PORT TRUST

NOTIFICATION

No. DC/Regl. of Entry & Exit of Vessel/2014.

12th November 2014.

The Cochin Port Trust (Regulations of Entry, Stay, Movement and Exit of Vessels) Regulations, 2014

In Pursuance of sub-section (2) of Section 124 of the Major Port Trusts Act, 1963 (38 of 1963), the Board of Trustees of Cochin Port hereby publish "The Cochin Port Trust (Regulations of Entry, Stay, Movement and Exit of vessels) Regulations, 2014." made by the Board in exercise of the powers, conferred under Section 123 of said Act, in supersession of "The Major Ports (Regulations of Entry, Stay, Movement and Exit of Vessels) Rules, 1989", for two weeks successfully and notice is hereby given for the approval thereto of the Central Government as required under sub-section (1) of Section 124 of that Act, will be applied for on or after the expiry of fourteen days from the date on which this notification is first published in this Gazette:

SCHEDULE

1. Short Title, Commencement and application:—

- (1) These Regulations shall be called 'The Cochin Port Trust (Regulations of Entry, Stay, Movement and Exit of Vessels) Regulations, 2014'.
- (2) They shall come into force on the date of their Publication in the Official Gazette.
- (3) They shall apply to Cochin Port only.

Provided that these Regulations shall not apply, to War Ships such as Naval Ships, auxiliary naval ships and vessels owned or operated by a State or Union Territory of Lakshadweep (UTL) and used for the time being for non-commercial purposes or for public service purposes.

2. Definitions:—

- (1) In these Regulations, unless the context otherwise requires:—
 - (a) "Act" means The Major Port Trusts Act, 1963 (38 of 1963),
 - (b) "Conservator" means the Conservator of the Cochin Port appointed by the Central Govt. under the Act,
 - (c) "Dy. Conservator" means the officer who is the head of the Cochin Port's Marine Department.

- (d) "Major Port" means any Port which the Central Govt. by notification in the Official Gazette, declare or may under any law for the time being in force have declared, to be a Major Port,
- (e) "Vessel" includes any ship, boat, sailing vessels or other description of vessel used in navigation;
- (f) "Maritime Claims" means the claims as defined under article 2 and 3 of the convention on Limitation of liability for Maritime Claims 1976,
- (g) "Port Facility" means any area of land or water, or land and water with in a Port including without limitation any buildings installations, terminals, floating terminals and transportation facilities, shipyards, ship repair yards or equipment in or on the relevant area used either wholly or partly in connection with loading or unloading of goods to or from ships, the moving of passengers to or from ships or for maintenance, repair and or anchorage of ships for the provision of services to ships,
- (h) "Protection and indemnity Insurance" means insurance with or without deductibles, and comprising of the Indemnity Insurances provide by the members of the International group of protection and indemnity clubs or such other insurance company as authorized from time to time by the Govt. of India, .
- (i) "Operator" means the owner of the ship or any other organization or any person authorized in this behalf for the operation of the ship,
- (j) "Ship Agent" means any person or commercial enterprise arranging and causing the transportation of cargo or passengers providing information's, preparing for and carry of the sale or purchase or lease contracts for and on behalf of the ship owners, masters, operators or charterers of the vessels by the agreement they enter into carrying of all the services and fulfilling the liabilities for such persons and parties duly acting for profit,
- (2) "Words and Expression" used but not defined in these Regulations, and defined in the Act, shall have the same meanings respectively, assigned to them in the Act,

3. Insurance Coverage Against Maritime Claims:—

Any vessel of three hundred tons gross or more, other than Indian Ship, entering into or sailing out of Port, terminals, anchorages or seeking Port facilities or in Indian territorial water shall be in possession of the insurance coverage against maritime claims and established policies and procedures for their supervision.

If such vessel, is

- (i) an oil product or Chemical tanker more than twenty years old, or
- (ii) a general cargo ship or bulk carrier or offshore support vessel or passenger vessel or any other type of cargo vessel more than twenty five years old, or
- (iii) a liquefied natural gas or liquefied petroleum gas tanker more than thirty years old,

It shall be classed with a classification society which is a member of the International Association of Classification Societies or with a recognized organization duly authorized by Indian Maritime administration.

4. Protection and Indemnity Insurance Policy:—

- (i) the operator of the vessels other than Indian vessels shall have a valid protection and indemnity Insurance policy against maritime claims to enter into Indian Coastal waters.
- (ii) the Insurance referred to in Regulations 3 above shall cover maritime claims subject to the Convention or Limitation of Liability for Maritime Claims, 1976. The amount of the Insurance for a ship per incident shall not be less than the maximum amount for the limitation of liability as laid down in the protocol of 1996 amending the Convention or Limitation of Liability for Maritime Claims 1976.

5. Documents to be submitted before entering into the Indian Territorial/Port:—

- (a) The operator of the vessel which intends to enter into the Indian territorial waters or in to the Cochin Port for any purpose shall submit either himself or through his shipping agent, forty eight hours before entering the Cochin Port or before entering into the Indian territorial waters, whichever is earlier, the copies of insurance policy and the certificate of class of the vessel and other particulars such as the age of vessel, nature of the cargo or passengers carried by the vessels, crew complements of the vessels to the Deputy Conservator of Cochin Port.
- (b) Where the copies of document in the Regulation 5 are to be filed through a shipping agent, the operator shall submit a signed declaration duly authenticating that:-
 - (i) appointment of shipping agent is valid from the time of the vessels enters Indian Coastal water/Cochin Port and shall remain valid till the vessel leaves Indian Coastal water/Cochin Port, and

- (ii) the certificates submitted are true and correct to the best of his knowledge and belief.
- (c) (i) the operator shall ensure that the Insurance policy and the certificate of class remain valid during the vessel stay in the Port area or terminals under the jurisdiction of India or areas in the coastal waters of India.
- (ii) that the operator shall remove the vessel from the harbour and Port waters immediately before the expiry of the validity of the insurance registration or other certificates. The vessel shall not be permitted to be berthed in Port waters without valid certificates at any cost.
- (iii) agent shall not be absolved of any liability on the ground that the agreement between the owner and agent stands expired/terminated and the agent shall continue to be liable till the vessel leaves the harbour of Port waters.

6. Providing new protection and Indemnity Policies:—

Where the Existing protection and indemnity policies providing insurance coverage for vessels against Maritime claims have been cancelled, suspended or become null and void for any reason whatsoever, the operator shall forthwith obtain a new protection and indemnity insurance policy for the vessel and submit a copy of such new or renewed insurance policy to the Port Authority.

7. Insurance and P & I Policy Certificates to be kept on board:—

The insurance certificate and protection and indemnity insurance policy for Maritime claims, in original or a certified copy and certificate of class in original shall be kept on board of the vessel and available for inspection. The Port Authority shall verify the validity of the insurance policy and Certificate of Class of the vessel and these documents. If the vessel is not in possession of valid protection and indemnity insurance and certificate of class, the matter shall be reported to the DG Shipping for appropriate action under the relevant Act.

8. Regulation of entry of certain vessels:—

No vessel shall be permitted entry into the Cochin Port, If the Conservator, having regard to:-

- (a) the nature of the cargo or passengers carried by the vessel;
- (b) her state of seaworthiness;
- (c) the crew complement of the vessel; or
- (d) the balance of bunkers left on board the vessel, is of the opinion that such entry of the vessel will become an impediment to navigation into, or within, the Port or will in any manner affect the normal work of the Port. The reasons for denial of entry must be recorded in writing.

9. Compliance with instructions or orders of the Conservator:—

- (1) (a) the operator, agents/or master of a vessel shall promptly carry out all the instructions issued by the Conservator for moving the vessel out of the Port or for movement of the vessel within the Port from one place to such other place as the Conservator may direct from time to time.
- (b) the conservator shall issue written orders to the operator, agent or master of a vessel for moving it out of the Port or for movement of the vessel within the port if in the opinion of the Conservator that such movement is necessary in the interest of the safety of the Port or any of its installations or in the interest of the proper handling of cargo or vessels in the Port or in public interest.
- (2) The Conservator may, on completion of twenty four hours after the issue of instructions or orders under sub-Regulation (1) to the operator, agent or master of a vessel, forthwith take proceedings to move the vessel in a manner as the Conservator deems fit, namely:
 - (a) where the instructions or orders issued by the Conservator under the provisions of the Act or any Regulations or orders made there under are not carried out by the operator, agent or master of the vessel within twenty four hours from the time of their issue;
 - (b) where the operator, agent, or master or any other person in charge of the vessel has abdicated his rights and obligations in relation to the vessel impliedly, or expressly by being unavailable to take the instructions or orders in regard to the vessel;
 - (c) where the condition of the vessel is such that the operator, agent or master is unable to carry out the instructions or orders;
 - (d) where the vessel is left without any adequate qualified crew to carryout such instructions or orders;
 - (e) where the vessel is lying idle within the precincts of the port continuously for a period of more than one month without any reasonable cause;

Provided that if the vessel is so lying idle continuously for a period of more than three months, action shall be taken in accordance with the powers delegated under regulation of "The Cochin Port Trust (Distraint or Arrest and sale of Vessels) Regulations, 2014"

- (f) where the stay of the vessel in the Port is likely to cause impediment to navigation into, or within, the said Port or in handling the cargo or vessel in the Port.
- (3) The operator, agents/or master of a vessel shall promptly carryout all the instructions issued by the Conservator for moving the vessel out of the Port or from the Port limits as mentioned above in Regulation 9 (1) and (2) above and are binding on them.

10. Vessels detained by Mercantile Marine Department (MMD) under the powers delegated in Sec. 336 and 342 of MS Act 1958 as amended.

- (1) If the vessels during discharge of cargo at Cochin Port is detained by Mercantile Marine Department after IMO Port State inspection, the Conservator shall remove the vessels to the outer anchorage on discharge of cargo and shall be detained as per the detention order and the operator, agent or master shall carryout all necessary repairs in consultation with classification/flag state to comply with all the rules requirements as per the applicable International Convention and present for re-inspection by the surveyor from the department of MMD on compliance within fifteen days from the date of shifting the vessel to the anchorage.
 - (a) The port shall not allow a berth for any vessel for carrying out any repairs for the purpose of validating the certificates/insurance policy. However, in exceptional circumstances the Port may grant special permission with a written consent of Conservator giving reasons.
- (2) If the owner, agent or master fails to remove the detained vessel within fifteen days from the anchorage then a penalty to ` 1,00,000 (One lakh only) per day of 24 hours and part there off with service tax as applicable shall be levied from 16th day onwards.

(Sd.)
Secretary.